IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10197 OF 2004

Balkrishna Govind Nair ..Petitioner.

Vs.

Ashok Dattatray Dhole-Patil & Ors...Respondents.

....

Mr.A.V.Anturkar with Ms.Aniketa Aher-Sawant for the Petitioner.

CORAM : DR.D.Y.CHANDRACHUD, J.

27th April, 2005.

P.C. :

By the impugned order dated 25th November, 2004, the Civil Judge, Senior Division, Pune impounded certain supplementary agreements dated 24th August, 1992 which were accordingly directed to be sent to the Collector for assessment and recovery of stamp duty and penalty in accordance with the provisions of the Bombay Stamp Act, 1958. The submission which has been urged on behalf of the Petitioner by the learned counsel is that the observations contained in the impugned

order are liable to be treated by the Collector as conclusive of the question as to whether stamp duty is liable to be paid and if so at what rate. I do not see any reason to interfere with the impugned order. All that the Learned Trial Judge has done is to impound the documents and send them for assessment of stamp duty and penalty. It is a function of the competent authority under the Bombay Stamp Act, 1958 to assess the stamp duty and penalty that is payable and if so at what rate. There is no reason to presume that the competent authority will not discharge its function in accordance with law. Counsel for the Petitioner then submitted that liberty may be granted to the Petitioner to urge all appropriate submissions before the Collector and if necessary to produce a certified copy of the original document which has already been assessed to stamp duty. It would be open to the Petitioner to make an appropriate application in that behalf which shall be duly considered by the Collector. The Petition is rejected.